

Opinion No. 12-910

June 20, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Hon. William C. McDonald, Governor of New Mexico, Santa Fe, N. M.

REGULAR SESSION OF LEGISLATURE.

A session of the Legislature beginning on second Tuesday of January, 1913, would be a regular session.

OPINION

{*47} I have today received your letter of yesterday in which you state that there has been a question raised as to whether under the Constitution there will be a regular session of the Legislature of New Mexico beginning with the second Tuesday of next January, and you request that I give you my written opinion on this subject at the earliest moment practicable.

I have noticed in several of the newspapers statements to the effect that there can be no regular session of the Legislature next winter, but I have not seen or heard any statement of any reason for such a suggestion. I have no doubt whatever that there should be regularly, in accordance with the Constitution, a session of the Legislature beginning on the second Tuesday of next January, and I believe a very brief statement of the constitutional provisions will be convincing.

The sessions of the Legislature are provided for in Section 5 of Article IV of the Constitution, which reads as follows:

"The first session of the Legislature shall begin at twelve o'clock, noon, on the day specified in the proclamation of the Governor. Subsequent sessions shall begin at twelve o'clock, noon, on the second Tuesday of January next after each general election. No regular session shall exceed sixty days, except the first, which may be ninety days, and no special session shall exceed thirty days."

It will be seen that, standing alone, this section would require us, for an answer to the present question, to decide what is a "general election." There are, however, other provisions in the Constitution which make it perfectly plain that the election which we will have in November next is a general election, but before calling your attention to those provisions it may be well briefly to consider whether or not the next November election would be a general election if we had nothing as a guide except the section above quoted.

As defined by Webster, "general" means "common to many or the greatest number; widely spread; prevalent, extensive, though not universal." There is no difficulty in applying these definitions to an election, and an election, no matter for what purpose, which is held throughout the whole state, is clearly "common to many, widely spread, and extensive."

In Maryland it has been held that an election general throughout the state, for members of congress and judges, was a general election within the meaning of a statute requiring a question to be submitted {*48} to the people at a general election, though it was not a general election as the term was used in the constitution.

Mackin v. State, 62 Md. 247.

In another Maryland case, it was decided that a statute which imposed a duty on a county clerk "after each and every general election" included an election for members of congress and for president although it was not an election for members of the State Legislature and state officers generally.

Downs v. State, 78 Md. 128.

Authorities can be found apparently in conflict with these views, but it will, I believe, upon examination be found that the conflict is apparent only, and arises from the fact that by statutory or by constitutional provisions, a restricted definition for the term "general" has been given. In our Constitution, however, we have no such restriction of the meaning of the word, but on the contrary, as already stated, there are provisions clearly showing that such an election as our next one is a general election.

By Section 4 of Article IV of the Constitution, immediately preceding the section hereinbefore quoted, it is provided that senators shall be elected for the term of four years and members of the house of representatives for the term of two years, and that they "shall be elected on the day provided by law for holding the general election of state officers or representatives in congress." Next November we must elect a representative in congress, and this section clearly shows that such an election is a general election.

The first paragraph of Section 4 of Article VI of the Constitution is as follows:

"The supreme court of the state shall consist of three justices, who shall be elected at the general election for representatives in congress for a term of eight years."

Here again the Constitution characterizes the election for representatives in congress as a general election.

Section 6 of Article XX is as follows:

"General elections shall be held in the State on the Tuesday after the first Monday in November in each even numbered year."

The present year is an even numbered year, and clearly we must have a general election in November next.

There can be no doubt that there must be a session of the legislature beginning at twelve o'clock, noon, on the second Tuesday of next January.